

# BUTZEL LONG

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*a professional corporation*

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March 1, 2011

Corbin R. Davis  
Clerk, Michigan Supreme Court  
Michigan Hall of Justice  
P.O. Box 30052  
Lansing, MI 48909

**VIA FIRST-CLASS MAIL  
and ELECTRONIC MAIL**  
[MSC\\_Clerk@courts.mi.gov](mailto:MSC_Clerk@courts.mi.gov)

**Re: ADM File No. 2006-38  
Proposed Amendments of Subchapter 9.100, et seq.**

Dear Mr. Davis:

The following are my comments on some of the proposed amendments. I make these comments from my perspective as an Attorney Discipline Board hearing panel member for 30 years.

I strongly support the changes to MCR 9.104(A)(1)-(3) proposed by the State Bar of Michigan ("SBM"). The subsections that the SBM wants to have deleted are in large part vague and a cause of consternation for ADB panel members. For example, after all these years of hearing and deciding cases, I still am at a total loss to understand what conduct "exposes the legal profession... to obloquy." The subsections proposed for deletion are also redundant and adequately covered by MRPC 8.4.

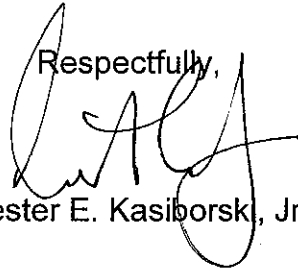
I also strongly support the deletion of MCR 9.104(A)(5) as proposed by the SBM. MRPC 8.4(b) more properly addresses criminal violations as a consideration in a disciplinary matter. As expressed in MCR 9.105, discipline for misconduct is not intended as punishment but for the protection of the public, the courts, and the legal profession. Those interests are fully protected by MRPC 8.4(b) whereas MCR 9.104(A)(5), as written, affords no discretion to a hearing panel and could require an unwarranted finding of professional misconduct.

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Finally, I oppose MCR 9.127(f) which has been proposed by the Attorney Grievance Commission. First, I believe that it is completely unnecessary. I have never been faced with a request for sanctions in any matter in which I have been a hearing panel member. Second, there is no reason to immunize the parties from MCR 2.114. The mere possibility of that Rule being invoked might be causing parties to engage in self-policing and may explain why I have not encountered a request for sanctions to this point.

Regardless of the outcome, I commend all of the active participants for the amount of time and effort devoted to these proposed amendments as well as the other proposed amendments about which I have no comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'C. Kasiborski, Jr.', written over the word 'Respectfully,'.

Chester E. Kasiborski, Jr.

CEK/rmr

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